

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE JUNE 15, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1114**

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**Introduced by Assembly Member Bonilla**

February 27, 2015

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An act to amend Section 15926 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL’S DIGEST

AB 1114, as amended, Bonilla. Health care: eligibility and enrollment.

Existing law establishes various programs to provide health care coverage to persons with limited financial resources, including the Medi-Cal program and the State’s Children’s Health Insurance Program. Existing law establishes the California Health Benefit Exchange (Exchange), pursuant to the federal Patient Protection and Affordable Care Act (PPACA), and specifies the duties and powers of the board governing the Exchange relative to determining eligibility for enrollment in the Exchange and arranging for coverage under qualified health plans, and facilitating the purchase of qualified health plans through the Exchange. Existing law, the Health Care Reform Eligibility, Enrollment, and Retention Planning Act, operative as provided, requires the California Health and Human Services Agency, in consultation with specified entities, to establish standardized single, accessible, application forms and related renewal procedures for state health subsidy programs, as defined, in accordance with specified requirements relating to the forms and notices developed for these purposes.

This bill would define the terms “forms” and “notices” for these purposes as ~~application, renewal, and other forms and letters~~ *application and renewal forms and notices of action* needed to obtain or retain eligibility, benefits, or services from an insurance affordability program, and all notices affecting the legal rights of applicants, beneficiaries, and enrollees. ~~program.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 15926 of the Welfare and Institutions  
2 Code is amended to read:

3 15926. (a) The following definitions apply for purposes of  
4 this part:

5 (1) “Accessible” means in compliance with Section 11135 of  
6 the Government Code, Section 1557 of the PPACA, and regulations  
7 or guidance adopted pursuant to these statutes.

8 (2) “Forms and notices” means ~~application, renewal, and other~~  
9 ~~forms and letters~~ *application and renewal forms and notices of*  
10 *action* needed to obtain or retain eligibility, benefits, or services  
11 from an insurance affordability program, and all notices affecting  
12 the legal rights of applicants, beneficiaries, and enrollees. ~~program.~~

13 (3) “Limited-English-proficient” means not speaking English  
14 as one’s primary language and having a limited ability to read,  
15 speak, write, or understand English.

16 (4) “Insurance affordability program” means a program that is  
17 one of the following:

18 (A) The Medi-Cal program under Title XIX of the federal Social  
19 Security Act (42 U.S.C. Sec. 1396 et seq.).

20 (B) The state’s children’s health insurance program (CHIP)  
21 under Title XXI of the federal Social Security Act (42 U.S.C. Sec.  
22 1397aa et seq.).

23 (C) A program that makes available to qualified individuals  
24 coverage in a qualified health plan through the California Health  
25 Benefit Exchange established pursuant to Title 22 (commencing  
26 with Section 100500) of the Government Code with advance  
27 payment of the premium tax credit established under Section 36B  
28 of the Internal Revenue Code.

1 (D) A program that makes available coverage in a qualified  
2 health plan through the California Health Benefit Exchange  
3 established pursuant to Title 22 (commencing with Section 100500)  
4 of the Government Code with cost-sharing reductions established  
5 under Section 1402 of PPACA and any subsequent amendments  
6 to that act.

7 (b) An individual shall have the option to apply for insurance  
8 affordability programs in person, by mail, online, by telephone,  
9 or by other commonly available electronic means.

10 (c) (1) A single, accessible, standardized paper, electronic, and  
11 telephone application for insurance affordability programs shall  
12 be developed by the department in consultation with MRMIB and  
13 the board governing the Exchange as part of the stakeholder process  
14 described in subdivision (b) of Section 15925. The application  
15 shall be used by all entities authorized to make an eligibility  
16 determination for any of the insurance affordability programs and  
17 by their agents.

18 (2) The department may develop and require the use of  
19 supplemental forms to collect additional information needed to  
20 determine eligibility on a basis other than the financial  
21 methodologies described in Section 1396a(e)(14) of Title 42 of  
22 the United States Code, as added by the federal Patient Protection  
23 and Affordable Care Act (Public Law 111-148), and as amended  
24 by the federal Health Care and Education Reconciliation Act of  
25 2010 (Public Law 111-152) and any subsequent amendments, as  
26 provided under Section 435.907(c) of Title 42 of the Code of  
27 Federal Regulations.

28 (3) The application shall be tested and operational by the date  
29 as required by the federal Secretary of Health and Human Services.

30 (4) The application form shall, to the extent not inconsistent  
31 with federal statutes, regulations, and guidance, satisfy all of the  
32 following criteria:

33 (A) The form shall include simple, user-friendly language and  
34 instructions.

35 (B) The form may not ask for information related to a  
36 nonapplicant that is not necessary to determine eligibility in the  
37 applicant's particular circumstances.

38 (C) The form may require only information necessary to support  
39 the eligibility and enrollment processes for insurance affordability  
40 programs.

1 (D) The form may be used for, but shall not be limited to,  
2 screening.

3 (E) The form may ask, or be used otherwise to identify, if the  
4 mother of an infant applicant under one year of age had coverage  
5 through an insurance affordability program for the infant's birth,  
6 for the purpose of automatically enrolling the infant into the  
7 applicable program without the family having to complete the  
8 application process for the infant.

9 (F) The form may include questions that are voluntary for  
10 applicants to answer regarding demographic data categories,  
11 including race, ethnicity, primary language, disability status, and  
12 other categories recognized by the federal Secretary of Health and  
13 Human Services under Section 4302 of the PPACA.

14 (G) Until January 1, 2016, the department shall instruct counties  
15 to not reject an application that was in existence prior to January  
16 1, 2014, but to accept the application and request any additional  
17 information needed from the applicant in order to complete the  
18 eligibility determination process. The department shall work with  
19 counties and consumer advocates to develop the supplemental  
20 questions.

21 (d) This section does not preclude the use of a provider-based  
22 application form or enrollment procedures for insurance  
23 affordability programs or other health programs that differs from  
24 the application form described in subdivision (c), and related  
25 enrollment procedures. This section does not preclude the use of  
26 a joint application, developed by the department and the State  
27 Department of Social Services, that allows for an application to  
28 be made for multiple programs, including, but not limited to,  
29 CalWORKs, CalFresh, and insurance affordability programs.

30 (e) The entity making the eligibility determination shall grant  
31 eligibility immediately whenever possible and with the consent of  
32 the applicant in accordance with the state and federal rules  
33 governing insurance affordability programs.

34 (f) (1) If the eligibility, enrollment, and retention system has  
35 the ability to prepopulate an application form for insurance  
36 affordability programs with personal information from available  
37 electronic databases, an applicant shall be given the option, with  
38 his or her informed consent, to have the application form  
39 prepopulated. Before a prepopulated application is submitted to  
40 the entity authorized to make eligibility determinations, the

1 individual shall be given the opportunity to provide additional  
2 eligibility information and to correct any information retrieved  
3 from a database.

4 (2) An insurance affordability program may accept  
5 self-attestation, instead of requiring an individual to produce a  
6 document, for age, date of birth, family size, household income,  
7 state residence, pregnancy, and any other applicable criteria needed  
8 to determine the eligibility of an applicant or recipient, to the extent  
9 permitted by state and federal law.

10 (3) An applicant or recipient shall have his or her information  
11 electronically verified in the manner required by the PPACA and  
12 implementing federal regulations and guidance and state law.

13 (4) Before an eligibility determination is made, the individual  
14 shall be given the opportunity to provide additional eligibility  
15 information and to correct information.

16 (5) The eligibility of an applicant shall not be delayed beyond  
17 the timeliness standards as provided in Section 435.912 of Title  
18 42 of the Code of Federal Regulations or denied for any insurance  
19 affordability program unless the applicant is given a reasonable  
20 opportunity, of at least the kind provided for under the Medi-Cal  
21 program pursuant to Section 14007.5 and paragraph (7) of  
22 subdivision (e) of Section 14011.2, to resolve discrepancies  
23 concerning any information provided by a verifying entity.

24 (6) To the extent federal financial participation is available, an  
25 applicant shall be provided benefits in accordance with the rules  
26 of the insurance affordability program, as implemented in federal  
27 regulations and guidance, for which he or she otherwise qualifies  
28 until a determination is made that he or she is not eligible and all  
29 applicable notices have been provided. This section shall not be  
30 interpreted to grant presumptive eligibility if it is not otherwise  
31 required by state law, and, if so required, then only to the extent  
32 permitted by federal law.

33 (g) The eligibility, enrollment, and retention system shall offer  
34 an applicant and recipient assistance with his or her application or  
35 renewal for an insurance affordability program in person, over the  
36 telephone, by mail, online, or through other commonly available  
37 electronic means and in a manner that is accessible to individuals  
38 with disabilities and those who are limited-English proficient.

39 (h) (1) During the processing of an application, renewal, or a  
40 transition due to a change in circumstances, an entity making

1 eligibility determinations for an insurance affordability program  
2 shall ensure that an eligible applicant and recipient of insurance  
3 affordability programs that meets all program eligibility  
4 requirements and complies with all necessary requests for  
5 information moves between programs without any breaks in  
6 coverage and without being required to provide any forms,  
7 documents, or other information or undergo verification that is  
8 duplicative or otherwise unnecessary. The individual shall be  
9 informed about how to obtain information about the status of his  
10 or her application, renewal, or transfer to another program at any  
11 time, and the information shall be promptly provided when  
12 requested.

13 (2) The application or case of an individual screened as not  
14 eligible for Medi-Cal on the basis of Modified Adjusted Gross  
15 Income (MAGI) household income but who may be eligible on  
16 the basis of being 65 years of age or older, or on the basis of  
17 blindness or disability, shall be forwarded to the Medi-Cal program  
18 for an eligibility determination. During the period this application  
19 or case is processed for a non-MAGI Medi-Cal eligibility  
20 determination, if the applicant or recipient is otherwise eligible  
21 for an insurance affordability program, he or she shall be  
22 determined eligible for that program.

23 (3) Renewal procedures shall include all available methods for  
24 reporting renewal information, including, but not limited to,  
25 face-to-face, telephone, mail, and online renewal or renewal  
26 through other commonly available electronic means.

27 (4) An applicant who is not eligible for an insurance affordability  
28 program for a reason other than income eligibility, or for any reason  
29 in the case of applicants and recipients residing in a county that  
30 offers a health coverage program for individuals with income above  
31 the maximum allowed for the Exchange premium tax credits, shall  
32 be referred to the county health coverage program in his or her  
33 county of residence.

34 (i) Notwithstanding subdivisions (e), (f), and (j), before an online  
35 applicant who appears to be eligible for the Exchange with a  
36 premium tax credit or reduction in cost sharing, or both, may be  
37 enrolled in the Exchange, both of the following shall occur:

38 (1) The applicant shall be informed of the overpayment penalties  
39 under the federal Comprehensive 1099 Taxpayer Protection and  
40 Repayment of Exchange Subsidy Overpayments Act of 2011

1 (Public Law 112-9), if the individual's annual family income  
2 increases by a specified amount or more, calculated on the basis  
3 of the individual's current family size and current income, and that  
4 penalties are avoided by prompt reporting of income increases  
5 throughout the year.

6 (2) The applicant shall be informed of the penalty for failure to  
7 have minimum essential health coverage.

8 (j) The department, in coordination with MRMIB and the  
9 Exchange board, shall streamline and coordinate all eligibility  
10 rules and requirements among insurance affordability programs  
11 using the least restrictive rules and requirements permitted by  
12 federal and state law. This process shall include the consideration  
13 of methodologies for determining income levels, assets, rules for  
14 household size, citizenship and immigration status, and  
15 self-attestation and verification requirements.

16 (k) (1) Forms and notices developed pursuant to this section  
17 shall be accessible and standardized, as appropriate, and shall  
18 comply with federal and state laws, regulations, and guidance  
19 prohibiting discrimination.

20 (2) Forms and notices developed pursuant to this section shall  
21 be developed using plain language and shall be provided in a  
22 manner that affords meaningful access to limited-English-proficient  
23 individuals, in accordance with applicable state and federal law,  
24 and at a minimum, provided in the same threshold languages as  
25 required for Medi-Cal managed care plans.

26 (l) The department, the California Health and Human Services  
27 Agency, MRMIB, and the Exchange board shall establish a process  
28 for receiving and acting on stakeholder suggestions regarding the  
29 functionality of the eligibility systems supporting the Exchange,  
30 including the activities of all entities providing eligibility screening  
31 to ensure the correct eligibility rules and requirements are being  
32 used. This process shall include consumers and their advocates,  
33 be conducted no less than quarterly, and include the recording,  
34 review, and analysis of potential defects or enhancements of the  
35 eligibility systems. The process shall also include regular updates  
36 on the work to analyze, prioritize, and implement corrections to  
37 confirmed defects and proposed enhancements, and to monitor  
38 screening.

39 (m) In designing and implementing the eligibility, enrollment,  
40 and retention system, the department, MRMIB, and the Exchange

- 1 board shall ensure that all privacy and confidentiality rights under
- 2 the PPACA and other federal and state laws are incorporated and
- 3 followed, including responses to security breaches.
- 4 (n) Except as otherwise specified, this section shall be operative
- 5 on January 1, 2014.